

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARBELLA CARDENAS AND
CLEMENCIA CARDENAS,

Plaintiffs,

VS.

VENEZIA BULK TRANSPORT, INC.
 AND NOAH CLARK,

Defendants.

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CIVIL ACTION NO. _____

NOTICE OF REMOVAL OF CIVIL ACTION

Defendants Venezia Bulk Transport, Inc. and Noah Clark file this Notice of Removal under 28 U.S.C. §§ 1332(a), 1441, and 1446(a).

I. INTRODUCTION

1. The civil action being removed was initiated in the 127th Judicial District Court of Harris County, Texas, on June 1, 2022, and was assigned cause no. 202232651.
2. This action is a personal injury case arising from a motor vehicle accident that occurred on or about June 4, 2020, in Houston, Texas.

II. BASIS FOR REMOVAL

3. Removal is proper based on diversity of citizenship, because the amount in controversy in this case exceeds the sum or value of \$75,000, exclusive of interest and

costs, and complete diversity of citizenship exists between the plaintiffs and defendants.
28 U.S.C. § 1332(a).

A. Amount in Controversy is Greater than \$75,000

4. In their Original Petition, Plaintiffs allege that “they seek monetary relief over \$1,000,000...” *See* Ex. (2), Plaintiffs’ Original Petition, § 11.1.

5. Therefore, the amount in controversy in this case exceeds the sum of \$75,000. *See* 28 U.S.C. § 1332(a) and 28 U.S.C. § 1446(c)(2).

B. Complete Diversity Exists between the Parties

6. For purposes of evaluating diversity jurisdiction, individuals are considered citizens of the state where they are domiciled, and “[a] person is domiciled where he or she has established a fixed habitation or abode, intending to remain there permanently or indefinitely.” *See Hanson v. Sonic – Frank Parra Autoplex*, No. 3:04-CV-0108-P, 2004 U.S. Dist. Lexis 11856, 2004 WL 1373134, at * 5 (N.D. Tex. June 15, 2004).

7. In their Original Petition, Plaintiffs identify themselves as residents of Houston, Harris County, Texas. *See* Ex. (2), Plaintiffs’ Original Petition, §§ 2.1-2.2. Additionally, upon information and belief, Plaintiffs hold Texas driver licenses and have lived in Texas for more than a decade. Further, upon information and belief, Plaintiff Marbella Cardenas is registered to vote in Texas and owns real property in Texas. For these reasons, Plaintiffs are domiciled in Texas, and therefore are citizens of Texas.

8. Defendant Noah Clark is not a citizen of Texas. He is a resident of Greensboro, North Carolina, and he intends to continue residing there for the foreseeable future. Therefore, Mr. Clark is not domiciled in Texas and is instead a citizen of North Carolina.

9. In the context of diversity jurisdiction, a corporation is deemed to be a citizen of each state in which it is incorporated and of each state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

10. Defendant Venezia Bulk Transport, Inc. is a Pennsylvania corporation, and its principal place of business is in Pottstown, Pennsylvania. Venezia Bulk Transport, Inc. was not incorporated in Texas and does not have a principal place of business in Texas. Therefore, Venezia Bulk Transport, Inc. is not a citizen of Texas.

11. Because there is complete diversity of citizenship between the Plaintiffs and the Defendants, and neither Defendant is a citizen of Texas, diversity jurisdiction exists, and removal is proper.

III.

COMPLIANCE WITH REMOVAL PROCEDURES

A. Venue of Removed Action

12. This Notice of Removal is properly filed in the United States District Court for the Southern District of Texas, Houston Division, under 28 U.S.C. § 1441(a), because the 127th Judicial District Court of Harris County, Texas, is located in this district and division.

B. Timeliness

13. This Notice of Removal has been filed within the 30-day time period required by 28 U.S.C. § 1446(b). Defendants Venezia Bulk Transport, Inc. and Noah Clark were served on June 3, 2022. *See* Ex. (C), Return of Service.

C. Consent, Notice to Other Parties and Notice to State Court

14. All properly joined and served Defendants have joined or consented to the removal of this action pursuant to 28 U.S.C. § 1446(b)(2).

15. Written notice of the filing of this Notice of Removal has been given to all adverse parties in accordance with 28 U.S.C. § 1446(d) and is noted in the Certificate of Service attached hereto.

16. Further, Defendants will promptly give written notice and file a copy of this Notice of Removal with the clerk of the 127th Judicial District Court, Harris County, Texas and on all counsel of record pursuant to 28 U.S.C. § 1446(d).

D. Compliance with Local Rule 81

17. In accordance with 28 U.S.C. § 1446(a) and Local Rule 81, attached to this Notice of Removal are:

- (1) All executed process in the case;
- (2) Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;
- (3) All orders signed by the state judge;
- (4) The docket sheet;
- (5) An index of matters being filed; and
- (6) A list of all counsel of record, including addresses, telephone numbers and parties represented.

<p>IV. PRAYER</p>

For these reasons, diversity jurisdiction under 28 U.S.C. § 1332(a) exists, and removal to the United States District Court for the Southern District of Texas, Houston Division, is proper under 28 U.S.C. § 1441(b).

Respectfully Submitted,

THE BASSETT FIRM

/s/ Mike H. Bassett

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**ATTORNEYS FOR DEFENDANTS,
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CERTIFICATE OF SERVICE

I certify that a true copy of this document was forwarded to the following counsel
of record on this the 1st day of July, 2022 pursuant to the Federal Rules of Civil
Procedure:

Via Eservice:

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